

RESOLUTION SESSIONS:
An Interpretation of IDEA 2004 Requirements
Mountain Plains Regional Resource Center
May 2006

IDEA '04 mandates that LEAs convene a Resolution Session after receiving notice of a parent's due process complaint or amended complaint. The Resolution Session is unique from other procedural safeguards in that the Resolution Session is a dispute resolution process that occurs after filing the hearing request BUT before the due process hearing timelines begin, building in time to attempt informal resolution of the parties' dispute. Unless excepted in writing, the Resolution Session proceeds as follows: [§615(F)(1)(b)]

- **WHO:** The LEA shall convene a meeting with the parents and relevant members of the IEP team, which shall include a representative of the agency who has decision-making authority and which **may not** include an attorney of the LEA unless the parent is accompanied by an attorney.
 - **WHEN:** Within 15 days of receiving notice of the parents' complaint, or the amended complaint notice if applicable
 - **WHY:** Permits the parents of the child an opportunity to discuss their complaint, and the LEA is provided the opportunity to resolve the complaint.
 - **EFFECT:** Suspends the due process hearing timeline. "If the LEA has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur, **and all of the applicable timelines for a due process hearing under this part shall commence.**" (Emphasis added.)
 - **OUTCOME:** Resolution or impasse.
 - If the dispute is resolved and resolution is reached, the parties shall execute a legally binding agreement signed by both parties, which is enforceable in any State court of competent jurisdiction or in a district court of the United States,
- OR**
- Commence the due process hearing timelines.

➤ **EXCEPTIONS**

- Parents and LEA must agree in writing to waive the meeting, or agree to use mediation. In this case, the due process timeline is NOT suspended.
- If the parties execute a resolution agreement, either party may void such agreement within three business days of the agreement's execution.

➤ PRACTICE TIP

For due process hearing officers, the Resolution Session limits a hearing officer's involvement until expiration of the 30 day resolution period. The exception to this general rule occurs when the noncomplaining party has challenged the sufficiency of the complaint. In that instance, the due process hearing officer must make a threshold decision regarding sufficiency and possible complaint amendment. If the hearing officer determines that the complaint was sufficient pursuant to §615(b)(7)(a), then the resolution timeline is not altered. However, if the complaint is deemed insufficient and the complaining party is permitted to amend the complaint, the resolution timeline recommences with LEA's receipt of the amended complaint. [§615(f)(1)(E)(ii)]

➤ FLOWCHART

